



#332-21

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City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 28, 2021
Land Use Action Date:	September 22, 2021
City Council Action Date:	December 20, 2021
90- Day Expiration Date:	December 28, 2021

DATE: September 24, 2021

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Neil Cronin, Chief Planner for Current Planning
Katie Whewell, Senior Planner

SUBJECT: **Petition #332-21**, for SPECIAL PERMIT/SITE PLAN APPROVAL to replace an existing attached garage with a front facing attached garage with ground floor area greater than 700 sq. ft., to accommodate more than three vehicles, and to exceed FAR at 50 Wachusett Road, Ward 7, Chestnut Hill, on land known as Section 61 Block 18 Lot 03, containing approximately 22,412 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: Sec. 7.3.3, 7.4, 3.4.4.E.1, 3.4.4.H, 3.1.3, 3.1.9 of the City of Newton Rev Zoning Ord, 2017.

The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



50 Wachusett Road

EXECUTIVE SUMMARY

The property located at 50 Wachusett Road consists of a 22,412 square foot lot in the Single Residence 1 (“SR-1”) zone in Chestnut Hill. The lot is improved with a single-family residence with an attached two-car garage. The petitioners are seeking to demolish the attached garage to construct a new attached garage with parking for four vehicles. As designed, the proposed garage addition would exceed the maximum allowed floor area ratio (the “FAR”) from .26 to .29, where .27 is the maximum allowed as of right, requiring a special permit. The proposed garage also requires a special permit for its footprint of 900 square feet, where 700 is the maximum allowed as of right, and parking for four cars, where three is the maximum allowed as of right. If approved, the addition will result in a structure that would contain 6,610 square feet of floor area, approximately 560 square feet above than what is allowed by right.

The Planning Department is unconcerned with the addition because it is designed to be subordinate to the house and maintains the appearance of a two-car garage from the street.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The specific site is an appropriate location for the proposed garage addition with more than 700 square feet of ground floor area, parking for more than three vehicles, and which exceeds the FAR. (§7.3.3.C.1)
- The proposed garage addition with more than 700 square feet of ground floor area parking for more than three vehicles, and which exceeds the FAR will adversely affect the neighborhood. (§7.3.3.C.2)
- The proposed the proposed garage addition with more than 700 square feet of ground floor area, parking for more than three vehicles, and which exceeds the FAR will create a nuisance or serious hazard to vehicles or pedestrians. (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
- The proposed increase in FAR from .26 to .29, where .27 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§3.1.3, §3.1.9, and §7.3.3)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

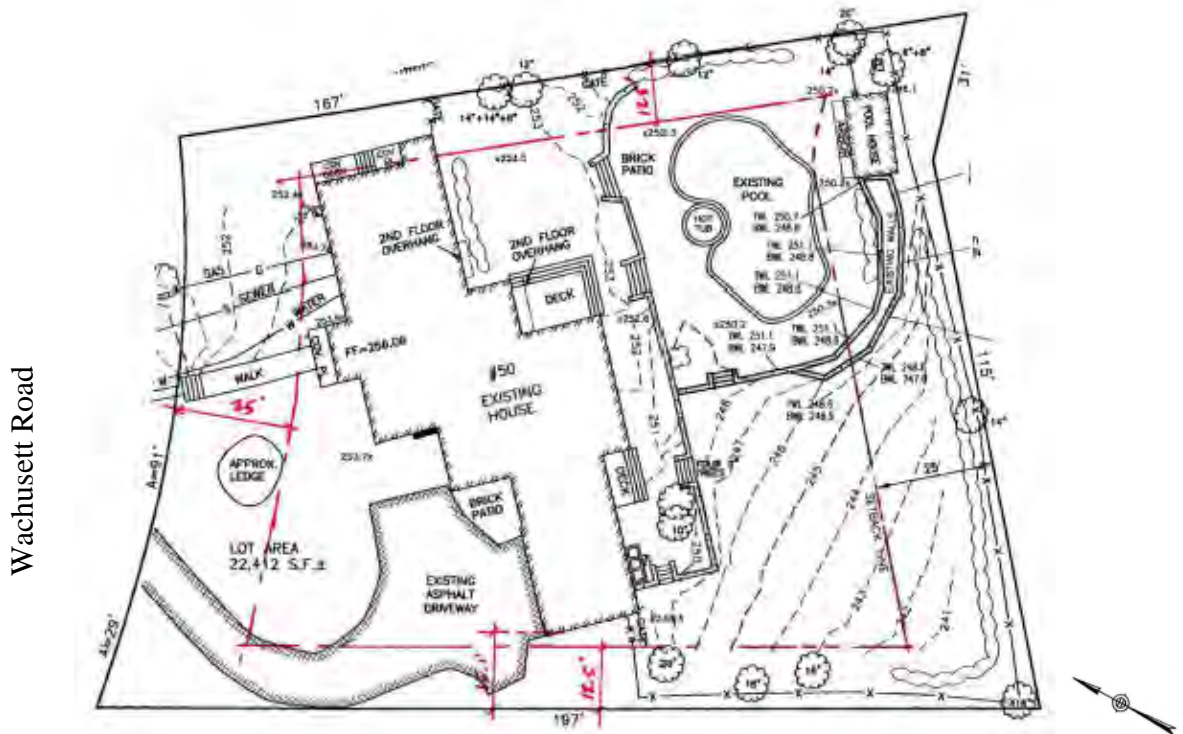
The subject property is located on Wachusett Road in the SR-1 zone in Chestnut Hill. The entirety of the surrounding area is within the SR-1 zone with a Public Use zone

southeast of the site (**Attachment A**). The surrounding land use of the neighborhood is single-family residential with two mixed use properties to the east on Monadnock Road (**Attachment B**).

B. Site

The site consists of 22,412 square feet of land and it is improved with a single-family dwelling. The lot is served by one curb cut providing access to an asphalt driveway with surface parking and the garage. The backyard has an outdoor patio area that features a pool, hot tub, and an accessory building. The site has an upward slope from the street to the front of the house and then the site slopes downward approximately twelve feet from the front to the rear southwest corner of the lot.

Existing Conditions



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

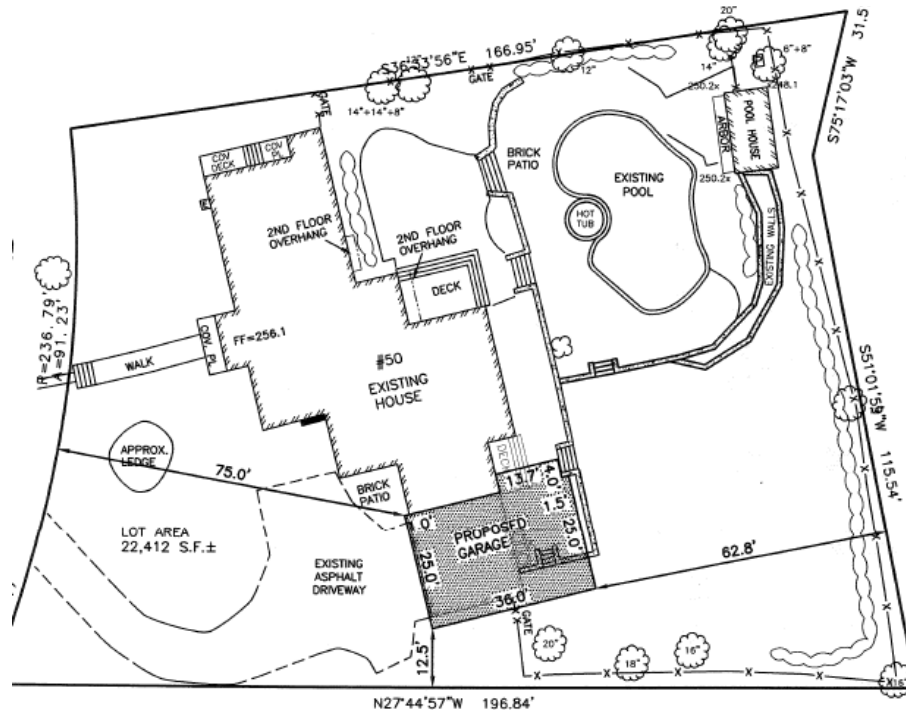
The principal use of the site is and will remain single-family.

B. Building and Site Design

The petitioners are proposing to demolish the existing attached two-car garage to construct a new attached garage with parking for four cars. The addition increases the footprint of the garage from 461 square feet to 900 square feet, a garage footprint of more than 700 square feet requires a special permit. The proposed addition adds approximately 733 square feet of floor area, resulting in a structure that would contain 6,610 square feet, approximately 560 square feet over what is allowed by right. The garage addition decreases the right (western) side setback from 15 feet to 12.5 feet, where 12.5 feet is required. The proposed garage consists of a single story with a hipped roof. The front elevation features an eyebrow dormer.

The proposed garage will accommodate parking for four vehicles which also requires a special permit. The four vehicles will be accommodated in a tandem style configuration. The garage will have two bays and maintain the appearance as a two-car garage from the street. As designed, the proposed front facing attached garage addition is exempt from the newly adopted design provisions governing garage doors due to the garage's location at least 10 feet behind the front elevation.

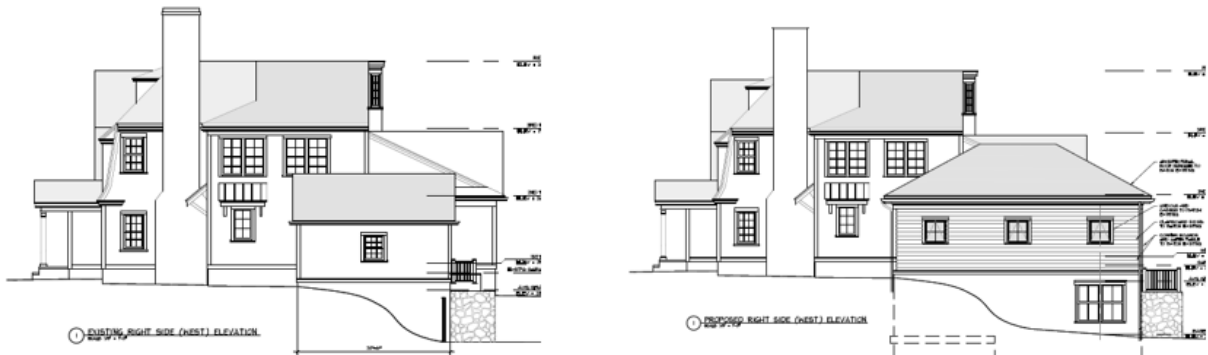
Proposed Site Plan



Existing and Proposed Front Elevations



Existing and Proposed Side (West) Elevations



The Planning Department is unconcerned with the addition because it is subordinate to the house, maintains the appearance of a two-car garage from the street.

C. Parking and Circulation

The petitioners are proposing to construct a new attached garage with parking for four vehicles. They are maintaining the existing driveway location and configuration.

D. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the

petitioner is seeking the following relief:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.4.4.E.1 §3.4.4.H	Request to allow a garage with a ground floor area greater than 700 square feet and provision for more than three vehicles	S.P. per §7.3.3
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3

B. Engineering Review

Review from Engineering is not required at this time.

C. Historic Preservation Review

The structure was reviewed by the Chief Preservation Planner on May 27, 2021 and found to be “not historically significant.” As such, no further action is necessary.

V. PETITIONER’S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Map
- Attachment B:** Land Use Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Council Order



ATTACHMENT A

Zoning

50 Wachusett Road

*City of Newton,
Massachusetts*

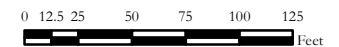
Zoning

-  Single Residence 1
-  Public Use

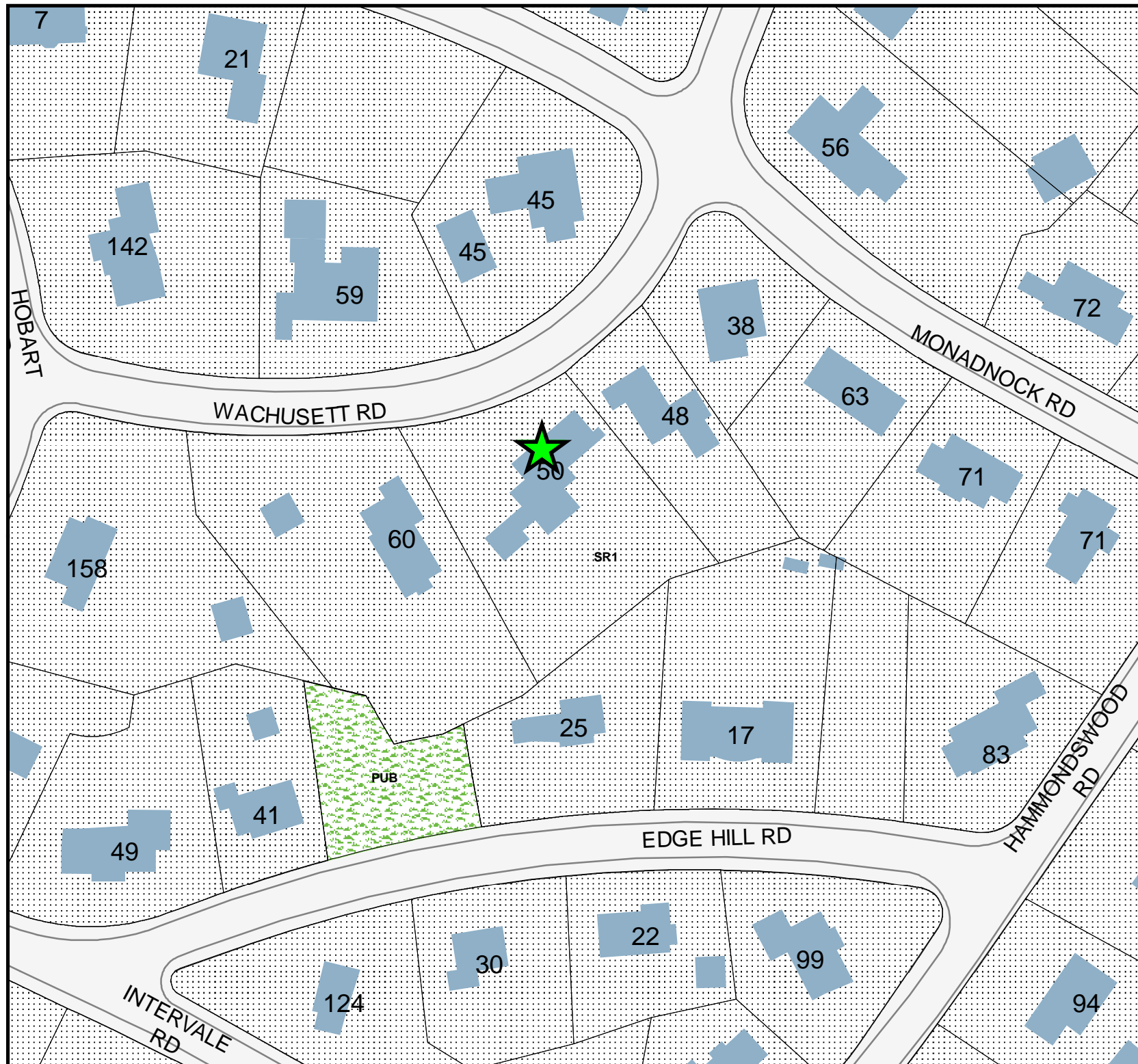


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
Mayor - Ruthanne Fuller
GIS Administrator - Douglas Greenfield



Map Date: September 16, 2021



ATTACHMENT B




Land Use

50 Wachusett Road

City of Newton,
Massachusetts

Land Use

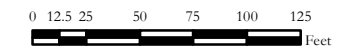
Land Use

-  Single Family Residential
-  Mixed Use
-  Vacant Land

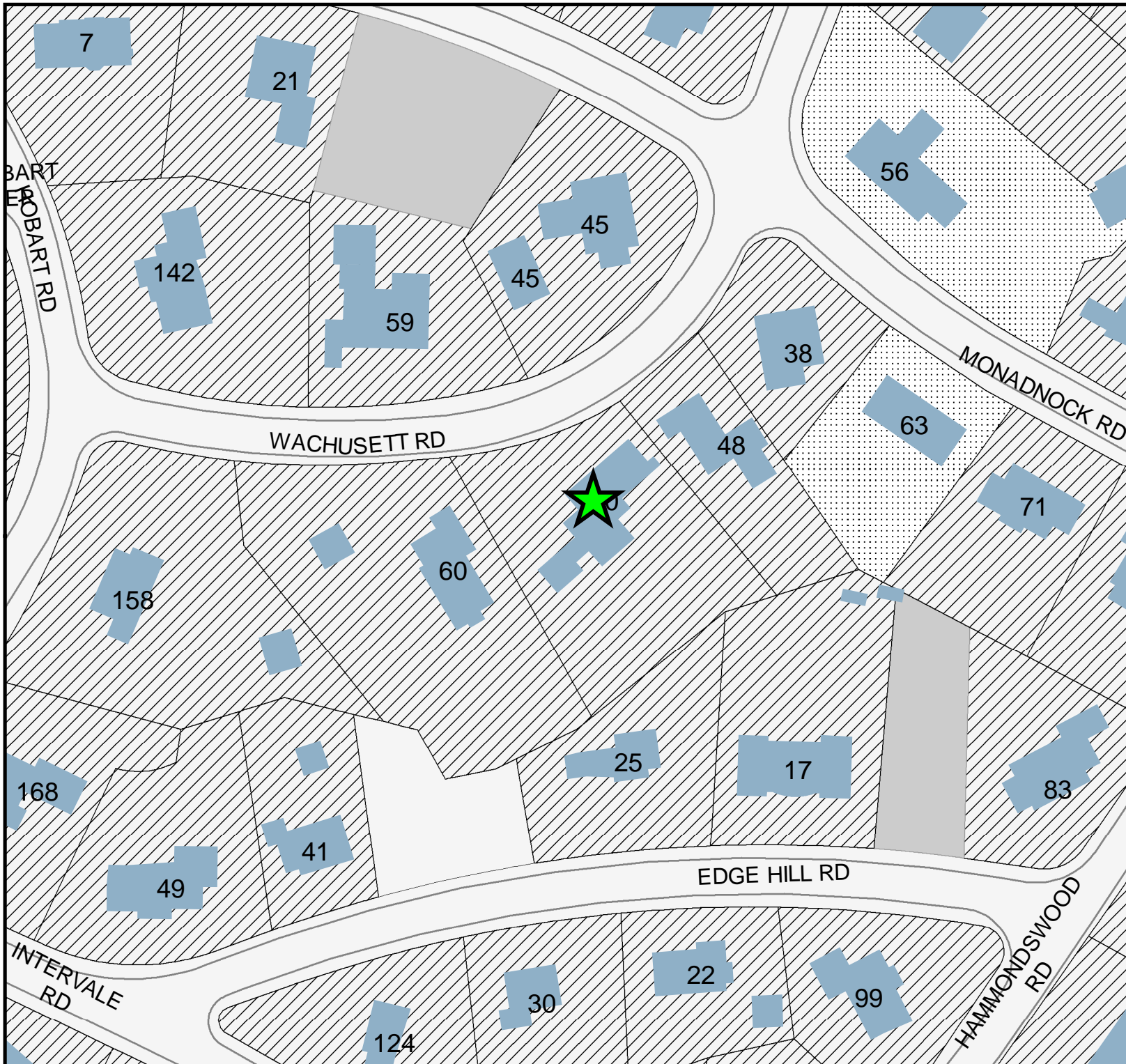


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CITY OF NEWTON, MASSACHUSETTS
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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: July 3, 2021

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Neil Cronin, Chief Planner for Current Planning

Cc: Steven and Ellen Segal, Applicants
D. Michael Collins, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Associate City Solicitor

RE: Request to allow a garage accommodating more than three vehicles and with a ground floor area exceeding 700 square feet, and to exceed FAR

Applicant: Steven & Ellen Segal	
Site: 50 Wachusett Road	SBL: 61018 0003
Zoning: SR1	Lot Area: 22,412 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 50 Wachusett Road consists of a 22,412 square foot lot improved with a single-family residence. The petitioners intend to raze the attached two-car garage and construct a new garage with accommodation for four vehicles, requiring a special permit.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by D. Michael Collins, architect, dated 5/13/2021
- Existing Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 6/10/2011
- Proposed Site Plan, signed and stamped by Bruce Bradford, surveyor, dated 5/10/2021
- FAR worksheet, signed and stamped by David Michael Collins, architect, submitted 5/13/2021
- Architectural Plans and Elevations, signed and stamped by David Michael Collins, architect, dated 5/7/2021

ADMINISTRATIVE DETERMINATIONS:

1. The petitioners intend to raze the attached two-car garage and construct a one-story four-stall garage accommodating tandem parking. The ground level of the proposed garage is 900 square feet, exceeding the 700 square foot by right maximum prescribed in section 3.4.4.E.1. Per section 3.4.4.H, a special permit is required to allow a detached garage structure with a ground floor area of 900 square feet.
2. Section 3.4.4.E.1 requires that a garage may provide for no more than three vehicles unless by special permit. The petitioners propose a garage that accommodates four vehicles, requiring a special permit per section 3.4.4.H.
3. The garage addition increases the gross floor area of the dwelling from 5,877 square feet to 6,610 square feet. The existing FAR is .26, where .27 is the maximum allowed per section 3.1.9. The proposed addition further increases the nonconforming FAR to .29, requiring a special permit pursuant to Sections 3.1.3 and 3.1.9.

SR1 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	22,412 square feet	No change
Frontage	100 feet	120 feet	No change
Setbacks			
• Front	25 feet	>25 feet	No change
• Side	12.5 feet	7.15 feet	No change
• Side	12.5 feet	15.1 feet	12.5 feet
• Rear	25 feet	>70 feet	62.8 feet
Height	36 feet	NA	30.7 feet
Stories	2.5	2.5	No change
FAR	.27	.26	.29
Max Lot Coverage	20%	15.7%	16.5%
Min. Open Space	65%	75%	74.8%

1. See “Zoning Relief Summary” below:

Zoning Relief Required		
Ordinance		Action Required
§3.4.4.E.1 §3.4.4.H	Request to allow a garage with a ground floor area greater than 700 square feet and provision for more than three vehicles	S.P. per §7.3.3
§3.1.3 §3.1.9	Request to exceed FAR	S.P. per §7.3.3

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL to allow a garage with more than 700 square feet of ground floor area and parking for more than three vehicles, and to exceed the floor area ratio (the "FAR") from .26 to .29, where .27 is the maximum allowed by-right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Richard Lipof:

1. The specific site in the SR-1 zoning district is an appropriate location for the proposed garage addition with more than 700 square feet of ground floor area, parking for more than three vehicles, and which exceeds the FAR because the garage addition is replacing an existing attached garage, . (§7.3.3.C.1)
2. The proposed garage addition with more than 700 square feet of ground floor area, parking for more than three vehicles, and which exceeds the FAR will not adversely affect the neighborhood because the garage will maintain its presence as a two-car garage from the street. (§7.3.3.C.2)
3. The proposed the proposed garage addition with more than 700 square feet of ground floor area, , parking for more than three vehicles, and which exceeds the FAR will not create a nuisance or serious hazard to vehicles or pedestrians because the driveway location is being maintained. (§7.3.3.C.3)
4. Access to the site over streets is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed increase in FAR from .26 to .29, where .27 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the proposed garage maintains its presence as a two-car garage from the street. (§3.1.3, §3.1.9, and §7.3.3)

PETITIONER: Steven G. Segal and Ellen Binstock

LOCATION: 50 Wachusett Road, on land known as Section 61, Block 18, Lot 3, containing approximately 22,412 square feet of land

OWNER: Steven G. Segal and Ellen Binstock

ADDRESS OF OWNER: 50 Wachusett Road
Newton, MA 02467

TO BE USED FOR: Single Family Dwelling with attached garage addition

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: To exceed the floor area ratio (§3.1.3, §3.1.9 and §7.3.3), and to allow a garage with ground floor area of more than 700 square feet and parking for more than three vehicles (§3.4.4.E.1, §3.4.4.H and §7.3.3)

ZONING: Single Residence 1 district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - a. Site Plan showing proposed conditions at 50 Wachusett Road, signed and stamped by Bruce Bradford, Professional Land Surveyor, dated May 10, 2020
 - b. Architectural Plans, "Segal Residence", prepared by D. Michael Collins, signed and stamped by David Michael Collins, Registered Architect, dated May 7, 2021 consisting of eight (8) sheets:
 - i. Proposed Basement Plan, A1
 - ii. Proposed First Floor Plan, A1.1
 - iii. Proposed Second Floor Plan, A1.2
 - iv. Proposed Attic/Third Floor Plan, A1.3
 - v. Proposed Roof Plan, A1.4
 - vi. Proposed Front Elevation, A2.1
 - vii. Proposed Rear Elevation, A2.2
 - viii. Proposed Right Side Elevation, A2.3

2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. The Petitioner shall do the following to remediate pest and rodent activity:
 - a. Prior to issuance of any demolition permit, the petitioner shall hire a licensed Pest Control Operator to assess the property for pest and rodent activity and develop and implement a pest remediation action plan to eliminate the activity and prevent off-site migration. The plan shall include the target pest, the methods for eliminating activity prior to demolition, and plan for preventing pest migration off-site during demolition and construction.
 - b. A copy of the Pest Control inspection report and the remediation action plan shall be submitted to the Planning and Development Department, Inspectional Services Department, and the Health and Human Services Department for review and approval prior to issuance of any demolition or building permit.
 - c. The Pest Control Operator shall implement the approved remediation action plan, monitor the site for the duration of the project, and take whatever action necessary to control pest infestation and migration. The Pest Control Operator shall maintain a written record of all pest control measures performed and shall provide progress reports to Inspectional Services Department and the Health and Human Services Department upon request.
 - d. Prior to issuance of any temporary certificate of occupancy, the Pest Control Operator shall file a final report with the Inspectional Services Department and the Health and Human Services Department summarizing the methods used, whether off-site migration occurred, the frequency and dates of service, and a post-construction site and neighborhood assessment.
 - e. In the event any demolition or construction activity causes off-site pest migration, prior to the issuance of any certificates of occupancy (temporary or final) ,the petitioner shall offer rodent abatement services on an as needed basis for all properties within a 300 foot radius of the site, subject to owner authorization of such properties and a waiver of liability.
4. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioner has:
 - a. Recorded a certified copy of this board order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
5. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioner has:

- a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an architect or land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio of the structure.
- b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a professional land surveyor.